

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/690,574 Confirmation No. 3531

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Applicant : Mike Daily, et al.

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APPELLANTS' REPLY BRIEF

25 Sir:

This is a REPLY BRIEF in response to the EXAMINER'S ANSWER, dated May 26, 2011, for the above-identified patent application. The Appellants respectfully request that the Board consider this REPLY BRIEF in conjunction with the previously submitted APPEAL BRIEF which includes the full content of the applicable argument.

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STATUS OF CLAIMS

Claims 1-64 are pending in the Application. Of those, Claims 1, 14, 26, 35, and 36 were cancelled. Claims 42-64 were allowed. Claims 9, 10, 21, 22, 34, and 41 were
5 objected to, while Claims 2-8, 11-13, 15-20, 23-25, 28-33, and 37-40 were under final rejection as a result of the Final Office Action dated August 9, 2004.

The Appellant appeals from the rejection of Claims 2, 4, 13, 15, 16, 24, 28, 29, 30, 37, and 38. Further, the Appellant submits that the remaining claims, Claims 3, 5-12,
10 17-23, 25, 27, 31-34, 36, and 39-41 are patentable at least through their dependence upon an allowable base claim.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

Issue 1 – Are Claims 2-5, 8, and 11-13 anticipated under 35 USC 102(e) by U.S. Patent Publication No. 2003/0060211 to Chern et al., herein referred to as the “Chern reference?”

5 Issue 2 – Are Claims 15-17, 20, and 23-25 anticipated under 35 USC 102(e) by the Chern reference?

Issue 3– Are Claims 28-31 and 33 anticipated under 35 USC 102(e) by the Chern reference?

10 Issue 4 – Are Claims 37-39 anticipated under 35 USC 102(e) by the Chern reference?

Issue 5 – Are Claims 6, 7, 18, 19, 32, and 40 obvious under 35 USC 103(a) over the Chern reference in view of U.S. Patent No. 5,870,454 to Dahlén?

ARGUMENT

15 *Issue 1 – Are Claims 2-5, 8, and 11-13 anticipated under 35 USC 102(e) by U.S. Patent Publication No. 2003/0060211 to Chern et al., herein referred to as the “Chern reference?”*

Claim 2

20 In the Examiner’s Answer, the Examiner maintained the rejection of Claim 2 and stated that a GPS system provides “orientation data.” In explanation, the Examiner stated that location/positioning, latitude/longitude data from a constellation of satellites provides orientation data.

25 The Appellants respectfully disagree and reassert that no one skilled in the art would equate the location data as provided by a GPS system with orientation data. While it is true that a constellation of satellites can be used to identify where a device is (i.e., location/position data), the constellation of satellites cannot tell in which direction the

device is facing (i.e., orientation data). As commonly understood by any one of ordinary skill in the art, a GPS system provides location data, while a compass can be used to provide “orientation data.”

5 This is supported by the Specification, which states, “[a]dditional embodiments of the present invention allow explicit querying of the information server 100 based on the position and orientation of the user. Such querying can be achieved with the aid of a body-worn device such as a compass that transmits the orientation of the user to the information server 100.” (See the Present Application, page 8).

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 Therefore, as supported by the Specification and as understood by one skilled in the art, “orientation data” is data that is indicative of the orientation (e.g., pointing direction) of a user wearing a device, such as a compass.

15 Thus, the Appellants submit that the Examiner erred in concluding that a GPS system is capable of providing both orientation data and location data. The Examiner’s conclusion is not consistent with the conclusion which would be reached by one skilled in the art. Therefore, the Appellants submit that the Chern reference does not teach, disclose or suggest all of the elements claimed in Claim 2. Specifically, the Chern
20 reference DOES NOT teach the claimed element of “orientation data.” Therefore, Claim 2 is patentable over the references as cited by the Examiner.

Claim 3

 Claim 3, dependent on Claim 2, is patentable by virtue of its dependency.

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Claim 4

 Claim 4, dependent on Claim 2, is patentable by virtue of its dependency. The Appellants further submit that Claim 4 is also patentable on its own merits.

Claim 4 claims, in part, “wherein said location-specific information is spatially enhanced based on the user position and orientation data to appear to be coming from a location or object with which the information is associated.”

5 In addressing the claimed element of the “orientation data,” the Examiner stated (in the Examiner’s Answer) that rout and/or driving directions were taught by the Chern reference. While rout and/or driving directions may be taught by the Chern reference, they do not include orientation data. The rout and/or driving directions are generated based on the location of the individual (as determined by the GPS device) and may be
10 provided in a map that has a dot identifying where the individual is within the map. They do not include orientation data that indicates in which direction the user and device are facing.

 Again and repeated for clarity, the Chern reference uses a GPS to provide location
15 specific data, NOT “orientation data”. Therefore, the Appellants submit that the Chern reference does not teach, disclose or suggest all the limitations of Claim 4. Therefore, Claim 4 is patentable over the reference cited by the Examiner.

Claim 5

20 Claim 5, dependent on Claim 2, is patentable by virtue of its dependency.

Claim 8

 Claim 8, dependent on Claim 2, is patentable by virtue of its dependency.

25 Claim 11

 Claim 11, dependent on Claim 2, is patentable by virtue of its dependency.

Claim 12

 Claim 12, dependent on Claim 11, is patentable by virtue of its dependency.

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Claim 13

Claim 13, dependent on Claim 2, is patentable by virtue of its dependency.

The Appellants further submit that Claim 13 is patentable on its own merits.

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Claim 13, claims, “The audio information transmission device of claim 2 configured to provide location-specific information based on an expected user destination determined from the user orientation data.”

10 In addressing the claimed element of the “orientation data,” the Examiner stated (in the Examiner’s Answer) that rout and/or driving directions were taught by the Chern reference. While rout and/or driving directions may be taught by the Chern reference, they do not include orientation data. The rout and/or driving directions are generated based on the position/location of the individual (as determined by the GPS device) and
15 may be provided in a map that has a dot identifying where the individual is within the map. They do not include orientation data that indicates in which direction the user and device are facing.

Further, the Chern reference teaches, at step 640, that the user enters the
20 destination city, in the case of city-to-city directions, or at step 644, the user enters the destination address if it is door-to-door driving directions that are requested. Thus, the Chern reference teaches that the user destination is determined from user input. In contrast, Claim 13 claims, “user destination determined from the user orientation data.” Thus, the Appellants submit that the Chern reference does not teach, disclose or suggest
25 all of the limitations of Claim 13. Therefore, the Appellants submit that Claim 13 is patentable over the cited prior art in addition to being patentable based upon an allowable base claim.

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Issue 2 – Are Claims 15-17, 20, and 23-25 anticipated under 35 USC 102(e) by the Chern reference?

Claim 15

5 It should be noted that the Examiner did not address (in the Examiner's Answer) the merits of Appellants argument with respect to Claim 15.

 Claim 15 claims, in part, "... utilizing a position detection system comprised of a variety of position devices to generate a user position ... wherein the position detection
10 system further collects user orientation data ." (emphasis added) Thus, Claim 15 claims both user position data and orientation data.

 While the Examiner failed to address the merits of Appellants' argument, the Appellants reassert that the Examiner has misinterpreted the prior art in that a GPS
15 system DOES NOT provide orientation data and, instead, provides only location data.

 Therefore, the Appellants submit that the Chern reference does not teach, disclose or suggest all of the elements claimed in Claim 15. Therefore, Claim 15 is patentable over the references cited by the Examiner.

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Claim 16

 It should be noted that the Examiner did not address (in the Examiner's Answer) the merits of Appellants argument with respect to Claim 16.

25 Claim 16 claims, in part, "wherein said location-specific information is spatially enhanced based on the user position and orientation data to appear to be coming from a location or object with which the information is associated."

 While the Examiner failed to address the merits of Appellants' argument, the Appellants reassert that the Examiner has misinterpreted the prior art in that a GPS
30 system DOES NOT provide orientation data and, instead, provides only location data.

Therefore, the Appellants submit that the Chern reference does not teach, disclose or suggest all of the elements claimed in Claim 16. Therefore, Claim 16 is patentable over the references cited by the Examiner.

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Claim 17

Claim 17, dependent upon Claim 15, is patentable by virtue of its dependency.

Claim 18

10 Claim 18, dependent upon Claim 17, is patentable by virtue of its dependency.

Claim 20

Claim 20, dependent upon Claim 15, is patentable by virtue of its dependency.

15 Claim 23

Claim 23, dependent upon Claim 15, is patentable by virtue of its dependency.

Claim 24

20 It should be noted that the Examiner did not address (in the Examiner's Answer) the merits of Appellants argument with respect to Claim 24.

Claim 24, claims, "The method of providing audio information of claim 15 configured to provide location-specific information based on an expected user destination determined from the user orientation data."

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While the Examiner failed to address the merits of Appellants' argument in the Examiner's Answer, the Appellants reassert that the Chern reference DOES NOT teach each element of the claim. The Chern reference teaches, at step 640, that the user enters the destination city, in the case of city-to-city directions, or at step 644, the user enters the destination address if it is door-to-door driving directions that are requested. Thus, the Chern reference teaches that the user destination is determined from user input. In

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contrast, Claim 24 claims, “user destination determined from the user orientation data.”

Thus, the Appellants submit that the Chern reference does not teach, disclose or suggest all of the limitations of Claim 24. Therefore, the Appellants submit that Claim 24 is patentable over the cited prior art in addition to being patentable based upon an allowable
5 base claim.

Claim 25

Claim 25, dependent upon Claim 15, is patentable by virtue of its dependency.

10 *Issue 3– Are Claims 28-31 and 33 anticipated under 35 USC 102(e) by the Chern reference?*

Claim 28

It should be noted that the Examiner did not address (in the Examiner’s Answer)
15 the merits of Appellants argument with respect to Claim 28.

Claim 28 claims, in part, “... a position detection system capable of providing the user-specified-specific-geographic location ... wherein the position detection system further provides orientation data to assist with user-generated queries.” (emphasis added)

20 Thus, Claim 28 claims both user geographic location and orientation data.

While the Examiner failed to address the merits of Appellants’ argument in the Examiner’s Answer, the Appellants reassert that the Chern reference DOES NOT teach each element of the claim.

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The Appellants resubmit that while the Chern reference does teach providing geographic location, the Chern reference does not teach, disclose or suggest orientation data, as is claimed in Claim 28. In the Chern reference, paragraph 0040 refers to a position determination system. In the middle of the paragraph, it states “Position
30 determination system 134 determines location in terms of parameters such as latitude, longitude, height, speed of travel, and any other useful location or position parameters.

In one embodiment, the position determination system 134 is implemented using a GPS (global positing system) or differential GPS. Paragraph 0084 of the Chern reference discusses additional details of the GPS embodiment, where there is a GPS receiver 304 and an antenna 310 which allows the GPS receiver 304 to communicate with the constellation of GPS satellites. Finally, paragraph 0085 of the Chern reference discusses voice synthesis and/or recognition capabilities. Thus, the Appellants submit that position data, which can be received from a GPS system and includes latitude, longitude, etc., is taught by the Chern reference; however, the Appellants submit that the Chern reference does not teach a “position detection system further provid[ing] orientation data to assist with user-generated queries,” as is claimed in Claim 28.

Thus the Appellants submit that the Examiner erred in concluding that a GPS system is capable of providing both orientation data and position data. The Examiner’s conclusion is not supported by the specification and is not consistent with the conclusion which would be reached by one skilled in the art. Therefore, the Appellants submit that the Chern reference does not teach, disclose or suggest all of the elements claimed in Claim 28. Therefore, Claim 28 is patentable over the references cited by the Examiner.

Claim 29

It should be noted that the Examiner did not address (in the Examiner’s Answer) the merits of Appellants argument with respect to Claim 29.

Claim 29, claims, “wherein the data associated with the user-specified-geographic-location provided to the user is based on an expected user destination determined from the orientation data.”

While the Examiner failed to address the merits of Appellants’ argument in the Examiner’s Answer, the Appellants reassert that the Chern reference DOES NOT teach each element of the claim.

As previously presented, paragraphs 0063 through 0065 of the Chern reference describe providing location-based driving directions in response to a user request. These

paragraphs describe door-to-door driving directions as well as city-to-city driving directions as being available. Additionally, these paragraphs disclose how the starting location and ending location are determined. The starting location is either determined by the position determination mechanism, i.e., GPS system, or by the user entering the information. The Chern reference teaches, at step 640, that the user enters the destination city, in the case of city-to-city directions, or at step 644, the user enters the destination address if it is door-to-door driving directions that are requested. Thus, the Chern reference teaches that the user destination is determined from user input. In contrast, Claim 29 claims, “user destination determined from the user orientation data.” Thus, the Appellants submit that the Chern reference does not teach, disclose or suggest all of the limitations of Claim 29. Therefore, the Appellants submit that Claim 29 is patentable over the cited prior art in addition to being patentable based upon an allowable base claim.

Claim 30

It should be noted that the Examiner did not address (in the Examiner’s Answer) the merits of Appellants argument with respect to Claim 30.

Claim 30 claims, in part, “wherein the data associated with the user-specified-specific-geographic location is spatially enhanced based on the user’s position and orientation to appear to be coming from a location or object with which the information is associated.”

While the Examiner failed to address the merits of Appellants’ argument in the Examiner’s Answer, the Appellants reassert that the Chern reference DOES NOT teach each element of the claim.

Paragraph 0063 of the Chern reference discloses providing location-based driving directions in which city-to-city or door-to-door driving directions are available. These driving directions are displayed on a handset. Paragraph 0064 of the Chern reference discloses that the user must enter the destination address, but the starting address can be either entered or determined by the user’s position. Again, the Appellants assert that

position data is being used here and not orientation data. Further, paragraph 0065 of the Chern reference teaches that the directions may be displayed visually or audibly rendered. Although the Chern reference teaches that that directions may be visually or audibly rendered, there is no teaching, disclosure, or suggestion that the information is

5 “spatially enhanced based on the user position and orientation data to appear to be coming from a location or object with which the information is associated.” Therefore, the Appellants submit that the Chern reference does not teach, disclose or suggest all the limitations of Claim 30. Therefore, Claim 30 is patentable over the reference cited by the Examiner.

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Claim 31

Claim 31, dependent upon Claim 28, is patentable by virtue of its dependency.

Claim 33

15 Claim 33, dependent upon Claim 28, is patentable by virtue of its dependency.

Issue 4 – Are Claims 37-39 anticipated under 35 USC 102(e) by the Chern reference?

Claim 37

20 It should be noted that the Examiner did not address (in the Examiner’s Answer) the merits of Appellants argument with respect to Claim 37.

Claim 37 claims, in part, “... choosing a user-specific-geographic location by utilizing a position detection system, wherein the user-specified-specific-geographic

25 location is a user’s position ... wherein the position detection system further provides user orientation data.” (emphasis added) Thus, Claim 37 claims both user position data and orientation data.

While the Examiner failed to address the merits of Appellants argument, the

30 Appellants reassert that the Examiner has misinterpreted the prior art in that a GPS system DOES NOT provide orientation data and, instead, provides only location data.

Therefore, the Appellants submit that the Chern reference does not teach, disclose or suggest all of the elements claimed in Claim 37. Therefore, Claim 37 is patentable over the references cited by the Examiner.

5 Claim 38

It should be noted that the Examiner did not address (in the Examiner's Answer) the merits of Appellants argument with respect to Claim 38.

10 Claim 38 claims, in part, "the act of returning the data further comprises an act of spatially enhancing the data based on the user's position and orientation data to appear to be coming from a location with which the data is associated."

15 While the Examiner failed to address the merits of Appellants' argument in the Examiner's Answer, the Appellants reassert that the Chern reference DOES NOT teach each element of the claim.

20 Paragraph 0063 of the Chern reference discloses providing location-based driving directions in which city-to-city or door-to-door driving directions are available. These driving directions are displayed on a handset. Paragraph 0064 of the Chern reference discloses that the user must enter the destination address, but the starting address can be either entered or determined by the user's position. Again, the Appellants assert that position data is being used here and not orientation data. Further, paragraph 0065 of the Chern reference teaches that the directions may be displayed visually or audibly rendered. Although the Chern reference teaches that that directions may be visually or
25 audibly rendered, there is no teaching, disclosure, or suggestion that the data is spatially enhanced based on the user position and orientation data to appear to be coming from a location or object with which the information is associated. Therefore, the Appellants submit that the Chern reference does not teach, disclose or suggest all the limitations of Claim 38. Therefore, Claim 38 is patentable over the reference cited by the Examiner.

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Claim 39

Claim 39, dependent on Claim 37, is patentable by virtue of its dependency.

*Issue 5 – Are Claims 6, 7, 18, 19, 32, and 40 obvious under 35 USC 103(a) over the
5 Chern reference in view of U.S. Patent No. 5,870,454 to Dahlén?*

Claim 6

Claim 6, dependent on Claim 2, is patentable by virtue of its dependency.

Claim 7

Claim 7, dependent on Claim 2, is patentable by virtue of its dependency.

10 Claim 18

Claim 18, dependent on Claim 17, is patentable by virtue of its dependency.

Claim 19

Claim 19, dependent on Claim 15, is patentable by virtue of its dependency.

Claim 32

15 Claim 32, dependent on Claim 28, is patentable by virtue of its dependency.

Claim 40

Claim 40, dependent on Claim 37, is patentable by virtue of its dependency.

CONCLUSION

For the extensive reasons advanced above, the Appellants respectfully contend that each claim is patentable. Therefore, reversal of all rejections and objections is courteously solicited.

5 To the extent necessary, a petition for an extension of time under 37 CFR 1.136 is hereby made. Please charge any shortage of fees due in connection with the filing of this paper, including extension of time fees, to deposit account no. 50-2691 and please credit any excess fees to such deposit account.

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Respectfully submitted,
TOPE-MCKAY & ASSOCIATES

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